

Under 37 C.F.R. §1.131(a), an applicant may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based. Under 37 C.F.R. §1.131(b), "[t]he showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application. Original exhibits of drawings or records, or photocopies thereof, must accompany and form part of the affidavit or declaration or their absence satisfactorily explained." (emphasis added). Therefore, Applicants must prove either:

1) reduction to practice prior to the effective date of the reference, which is March 21, 2000 or

2) conception of the invention prior to March 21, 2000, coupled with due diligence from prior to March 21, 2000 to a subsequent reduction to practice.

Applicants are submitting evidence of reduction to practice prior to March 21, 2000 and thus, need not show such diligence.

The Office Action considered the affidavit filed on May 5, 2004 to be ineffective to overcome the Jaffe reference. In particular, the Office Action considered the evidence insufficient to establish conception of the invention prior to the effective date of Jaffe and insufficient to establish reduction to practice prior to the effective date of Jaffe.

Applicants hereby submit, under 37 C.F.R. 1.131, an Affidavit of Anthony J. Baerlocher, a named inventor of the presently claimed invention. This Affidavit establishes that prior to the effective date of Jaffe, March 21, 2000, Applicants

conceived and developed the programming code of the claimed invention. The Affidavit of Mr. Baerlocher establishes that the claimed invention was conceived at least as early as December 23, 1998. This Affidavit also establishes that the programming code, which a processor executes to provide the presently claimed invention, was developed at least as early as December 15, 1999. The Affidavit of Anthony J. Baerlocher under 35 U.S.C. § 1.131, is hereby submitted.

In the present Office Action and during the interview courteously granted by the Examiner on February 7, 2005, the Examiner requested additional evidence in the form software code in readable form to prove reduction to practice. Exhibit A, which is attached to the Affidavit, includes a plurality of purpose sections and a section of programming code after each purpose section. The purpose section describes what the section of code following that purpose section accomplishes.

Anthony J. Baerlocher swears in his Affidavit that the programming code was developed at least as early at least as early as December 15, 1999. This programming code is evidence of a reduction to practice. Accordingly, the above-referenced documents provide evidence that the claimed invention was conceived and reduced to practice at least as early as December 15, 1999 for the reasons set forth in the Affidavit, Exhibit A and as explained below.

More specifically, the portion on pg. 7 of Exhibit A which begins with "Purpose: Spin fox reel, hilite the target tile, and move fox to target position" describes the purpose of the code which follows, which is to move the fox to a location. Accordingly, following this purpose section is the programming code which the processor executes to cause a display device to display a player symbol, represented by a fox symbol, to move to at

least one location. In another example, the purpose code section on pg. 10 of Exhibit A beginning with "Purpose: spin hound reel and move hound to target tile" describes the purpose of the code which follows, which is to cause the hound to move to a location. Accordingly, following this purpose section is the programming code which the processor executes to cause a display device to display a terminating symbol, represented by a hound symbol, to move to at least one location. Please note that Exhibit A includes a plurality of award outcomes throughout the programming code.

Mr. Baerlocher swears in his Affidavit that the code of Exhibit A was developed at least at least as early as December 15, 1999. Applicants respectfully submit that the claimed invention was conceived and reduced to practice prior to March 21, 2000, as evidenced by Mr. Baerlocher's Affidavit and by Exhibit A. Applicants respectfully submit that Jaffe is not prior art of the presently claimed invention. Applicants respectfully request that the rejections to Claims 1 to 9, 13, 14, 23, 24, 26, 27, 31, 34 and 37 to 49 be withdrawn and that these claims are in condition for allowance.

The Office Action rejected Claims 10 to 12, 15 to 22, 28 to 30, 32, 33, 35 and 36 under 35 U.S.C. 103(a) as being unpatentable over Jaffe in view of U.S. Patent No. 6,520,855 to DeMar ("DeMar"). However, as previously discussed, Applicants respectfully submit that Jaffe is not prior art of the presently claimed invention.

DeMar is directed to a plurality of bonus games which all include a game board (Monopoly) with a plurality of stations or properties that are each associated with an award. In one embodiment, a player selects a player symbol, and the game moves the player symbol to one or more stations. The game provides the player any award associated with each visited station. In another embodiment, one of the stations of the

game board is designated a bonus station and a payoff is awarded to the player each successive time a player symbol reaches the bonus station (e.g., each time the player passes GO). The payoff escalates each successive time the player symbol reaches the bonus station. In another embodiment, a player selects a predicted position on the game board (e.g., buys a house for a property), the game determines a true position (e.g., moves a player symbol to a property) and provides an award if the predicted position matches the true position (e.g., the player symbol lands on the property with the house). DeMar does not teach, disclose or suggest a gaming device including at least one terminating symbol and a processor which is operable to cause the terminating symbol to visit at least one of the locations on the path.

Dependent Claims 10 to 12, and 15 to 22 (depending directly or indirectly from independent Claim 1) all include, in combination with other elements, at least one terminating symbol and a processor operable to cause the terminating symbol to visit at least one of the locations on the path. DeMar does not teach, disclose or suggest a terminating symbol or a processor operable to cause the terminating symbol to visit at least one of the locations on the path. For this reason, Applicants respectfully submit that Claims 10 to 12, and 15 to 22 are patentably distinguished over DeMar and are in condition for allowance.


Dependent Claims 28 to 30, 32, 33, 35 and 36 (depending directly or indirectly from independent Claim 26) all include, in combination with other elements, displaying a path which includes a plurality of locations and causing at least one player symbol to visit one of the plurality of locations. These claims include causing at least one terminating symbol to visit one of the plurality of locations and repeating these steps

until the player symbol catches the terminating symbol or the terminating symbol catches the player symbol. DeMar does not teach, disclose or suggest a terminator symbol. Moreover, DeMar does not teach, disclose or suggest causing at least one terminating symbol to visit locations until the player symbol catches the terminating symbol or the terminating symbol catches the player symbol. For these reasons, Applicants respectfully submit that Claims 28 to 30, 32, 33, 35 and 36 are patentably distinguished over DeMar and are in condition for allowance.

An earnest endeavor has been made to place this application in condition for formal allowance and in the absence of more pertinent art such action is courteously solicited. If the Examiner has any questions regarding this Response, Applicants respectfully request that the Examiner contact the undersigned.

Respectfully submitted,

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Dated: February 22, 2005